

ASSEMBLY BILL

No. 1913

Introduced by Assembly Member Lowenthal

February 8, 2002

An act to add Section 30812 to the Public Resources Code, relating to coastal development.

LEGISLATIVE COUNSEL'S DIGEST

AB 1913, as introduced, Lowenthal. Coastal development.

(1) Existing law requires any person wishing to perform or undertake any development in the coastal zone to obtain a coastal development permit from the California Coastal Commission or from a local government.

This bill would permit the executive director of the commission to file notice of a violation of the California Coastal Act of 1976 if the executive director has determined that real property has been developed in violation of the act. The bill would require a public hearing to be held if the owner submits a timely objection to the filing of the notice of violation, and would require the issuance of a clearance letter if the commission finds that no violation has occurred. If the commission determines that a violation has occurred, the bill would require the recordation of the notice of violation with the county recorder of the county in which the real property is located, thereby imposing a state-mandated local program.

The bill would require the executive director, within 30 days after the final resolution of a violation, to record a notice of rescission with the county recorder indicating that the notice of violation is no longer valid. The bill would also authorize the commission at any time and for cause,

on its own initiative or at the request of the property owner, to cause a notice of rescission to be recorded invalidating the notice of violation.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 30812 is added to the Public Resources
2 Code, to read:
3 30812. (a) Whenever the executive director of the
4 commission has determined that real property has been developed
5 in violation of this division, the executive director may cause a
6 notification of intention to record a notice of violation to be mailed
7 by regular and certified mail to the owner of the real property at
8 issue, describing the real property, identifying the nature of the
9 violation, naming the owners thereof, and stating that if the owner
10 objects to the filing of a notice of violation, an opportunity will be
11 given to the owner to present evidence on the issue of whether a
12 violation has occurred.
13 (b) The notification specified in subdivision (a) shall indicate
14 that the owner is required to respond in writing, within 20 days of
15 the postmarked mailing of the notification, to object to recording
16 the notice of violation. The notification shall also state that if,
17 within 20 days of mailing of the notification, the owner of the real
18 property at issue fails to inform the executive director of the
19 owner's objection to recording the notice of violation, the
20 executive director shall record the notice of violation with the
21 county recorder of the county in which the real property is located.
22 (c) If the owner submits a timely objection to the filing of the
23 notice of violation, a public hearing shall be held at the next
24 regularly scheduled commission meeting for which adequate
25 public notice can be provided, at which the owner may present
26 evidence to the commission why the notice of violation should not
27 be recorded. The hearing may be postponed for cause for not more



1 than 90 days after the date of the receipt of the objection to
2 recordation of the notice of violation.

3 (d) If, after the commission has completed its hearing and the
4 owner has been given the opportunity to present evidence, the
5 commission finds that, based on the available evidence, no
6 violation has occurred, the executive director shall mail a
7 clearance letter to the owner of the real property. If the commission
8 finds that, based on available evidence, a violation has occurred,
9 the executive director shall record the notice of violation with the
10 county recorder of the county in which the real property is located.

11 (e) The notice of violation, when recorded, is constructive
12 notice of the violation to all successors in interest in that property,
13 in the same manner as provided in Section 405.24 of the Code of
14 Civil Procedure. The county recorder shall index the names of the
15 fee owners in the general index.

16 (f) Within 30 days after the final resolution of a violation that
17 is the subject of a recorded notice of violation, the executive
18 director shall mail a clearance letter to the owner of the real
19 property and shall record a notice of rescission with the county
20 recorder indicating that the notice of violation is no longer valid.
21 The notice of rescission shall have the same effect of a withdrawal
22 or expungement under Section 405.61 of the Code of Civil
23 Procedure.

24 (g) The executive director shall not invoke the procedures of
25 this section until all existing methods for resolving the violation
26 have been utilized and the property owner has been made aware
27 of the potential for the recordation of a notice of violation. For
28 purposes of this subdivision, existing methods for resolving the
29 violation do not include the commencement of an administrative
30 or judicial proceeding.

31 (h) This section only applies in circumstances in which the
32 commission is the legally responsible coastal development
33 permitting authority or in which a local government or port
34 governing body requests the commission to assist in the resolution
35 of an unresolved violation if the local government is the legally
36 responsible coastal development permitting authority.

37 (i) The commission, 24 months from the date of recordation,
38 shall review each notice of violation that has been recorded to
39 determine why the violation has not been resolved and whether the
40 notice of violation should be expunged.

1 (j) The commission, at any time and for cause, on its own
2 initiative or at the request of the property owner may cause a notice
3 of rescision to be recorded invalidating the notice of violation
4 recorded pursuant to this section. The notice of rescision shall have
5 the same effect of a withdrawal or expungement under Section
6 405.61 of the Code of Civil Procedure.

7 SEC. 2. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 a local agency or school district has the authority to levy service
10 charges, fees, or assessments sufficient to pay for the program or
11 level of service mandated by this act, within the meaning of
12 Section 17556 of the Government Code.

